



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145)
CEPOA-CO-R
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755

PUBLIC NOTICE DATE:	23 October 2006
EXPIRATION DATE:	22 November 2006
REFERENCE NUMBER:	POA-1994-1101-V
WATERWAY:	Ruby Creek

AFTER-THE-FACT

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Dr. Paul Sayer, Post Office Box 10, Homer, Alaska 99603

AGENT: Mr. John Calhoun, Bay Realty, 3631 East Pioneer Avenue, Homer, Alaska 99603

LOCATION: The proposed and existing work is located within Tract "B-1", SE $\frac{1}{4}$ Section 29 and NE $\frac{1}{4}$ Section 32, Township 5 South, Range 14 West, Seward Meridian; Kenai Peninsula Parcel No. 171-070-34; Latitude 59.7085 °N Longitude 151.6969 °W. The Hughes Tool Company Sayer Addition No. 3 Subdivision site is located between Anchor Point and Homer, Alaska, south of the Sterling Highway and North Fork Road intersection. The majority of the subdivision is accessed by Sayer Road, from the North Fork Road. The western edge of the subject property may be accessed from the Sterling Highway, north of the intersection of the Old Sterling Highway.

PURPOSE: The development of 34 single-family home sites and their attended features. The application also includes placement of utilities, construction of subdivision roads, wetlands restoration, and culvert replacement.

WORK: Retention of existing fill material placed in wetlands for road construction (.1 acres), deposit of new fill material in wetlands on three home lots (1.2 acres), and construction of two subdivision roads within wetlands (.3 acres). The total amount of wetland fill involved would be approximately 70,316 cubic yards of material and will result in the loss of approximately 1.6 acres of wetlands. Also, approximately 1.8 acres of unauthorized wetland fill will be removed and the wetland site restored to preconstruction conditions (see additional information). The proposed house pads, road construction and wetland restoration work are in accordance with the attached plans; sheets 1-13 dated 09/01/2006.

ADDITIONAL INFORMATION: The wetland restoration plan addresses areas impacted by the discharge of dredged and fill material into waters of the United States (U.S.) at the site. Areas to be restored include the "active pit" where gravels have been mined, drainage ditches excavated in wetlands near Ruby Creek, and cut and fill areas along the Mother Lode Street road prism. Soils that were side cast in the wetlands along the limits of the active pit and along the excavated drainage ditches will be replaced to their original location. Additionally, an area identified as Restoration Area 2 (Sheet 2 of 13) near lots 37 and 38, will be graded and revegetated to approximate pre-disturbance conditions. Approximately 1.8 acre of unauthorized wetland fill will be removed and the wetland site restored to preconstruction conditions.

MITIGATION: As a result of early project planning in the platting of the subdivision and pre-application coordination, the applicant has incorporated into the subdivision and proposed project the following mitigation efforts to reduce impacts to the aquatic environment:

1. Reduction in number of home sites.

The average lot size in Hughes Tool Company Sayer Addition No. 3 Subdivision is 2.65 acres with some lots as small as one acre in uplands and others as large as 5 acres in wetlands. Of the 36 lots in the subdivision two lots (lots 31 and 35) will not be constructed on to avoid wetland impacts. Combined size of lots 31 and 35 is 24 acres with 20 acres being wetlands.

2. Electric Lines. Electric main lines have been installed underground in upland areas and overhead in wetland areas. Service lines will be extended underground to each lot to provide increased reliability and improved aesthetics.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and federally

recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: Preliminarily, the described activity will not affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. *et seq* and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Forrest E. McDaniel at (907) 283-3519, or by email at forrest.e.mcdaniel@poa02.usace.army.mil if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under this authority:

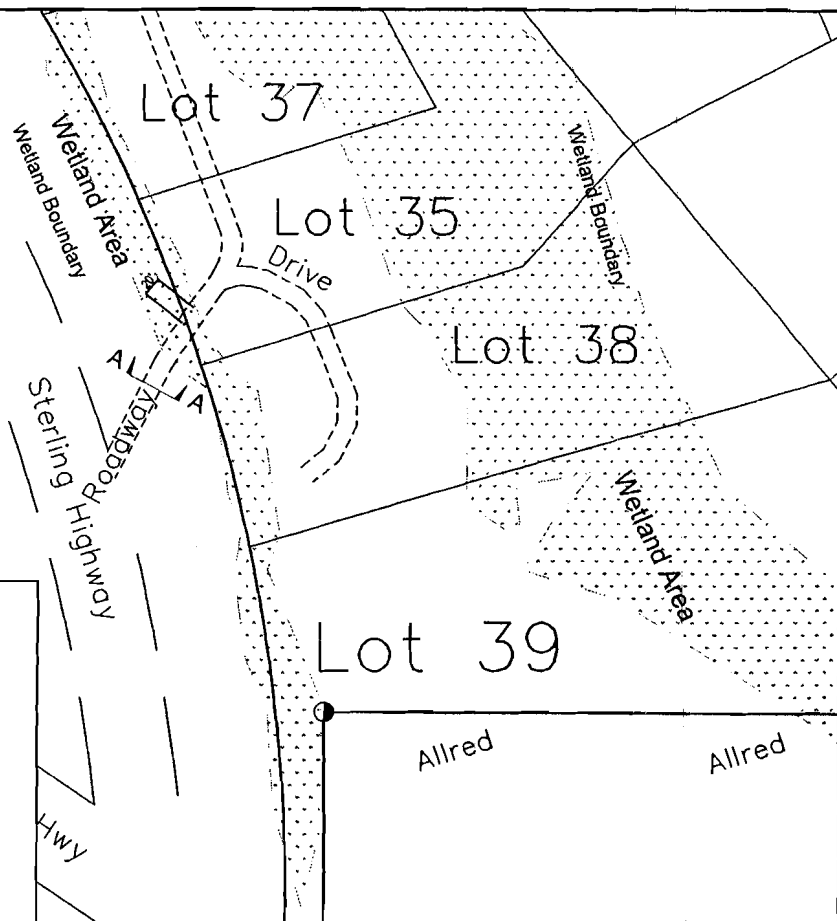
(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



Quantity Summary

Fill = 125 cy

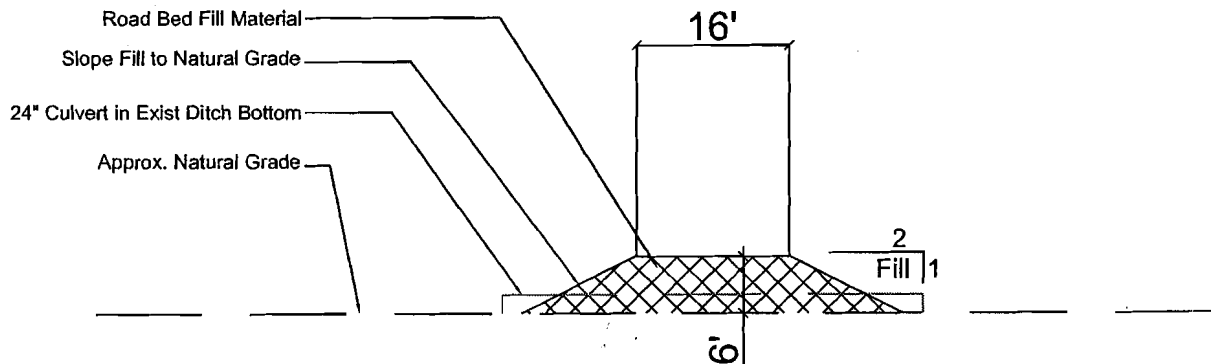
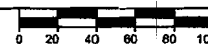
Cut = 0 cy

Wetlands Impacted = 800 sf

Place geotextile as required under fill.

STERLING HIGHWAY/ROADWAY INTERSECTION

SCALE: 1" = 100



ROAD SECTION A-A

SCALE: 1" = 20



RESTORATION

SCIENCE & ENGINEERING

911 West 8th Avenue, Suite 100

Anchorage, Alaska 99501

PH (907) 278-1023 FAX (907) 277-5718

Wetland Fill Permit

Access Roadway on Sterling Highway

Dr. Paul Sayer

Hughes Tool Co. Sayer Addition No. 3 ACCESS

Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,

T5S, R14W, Seward Meridian, Homer, Alaska

Wetlands South of Anchor River

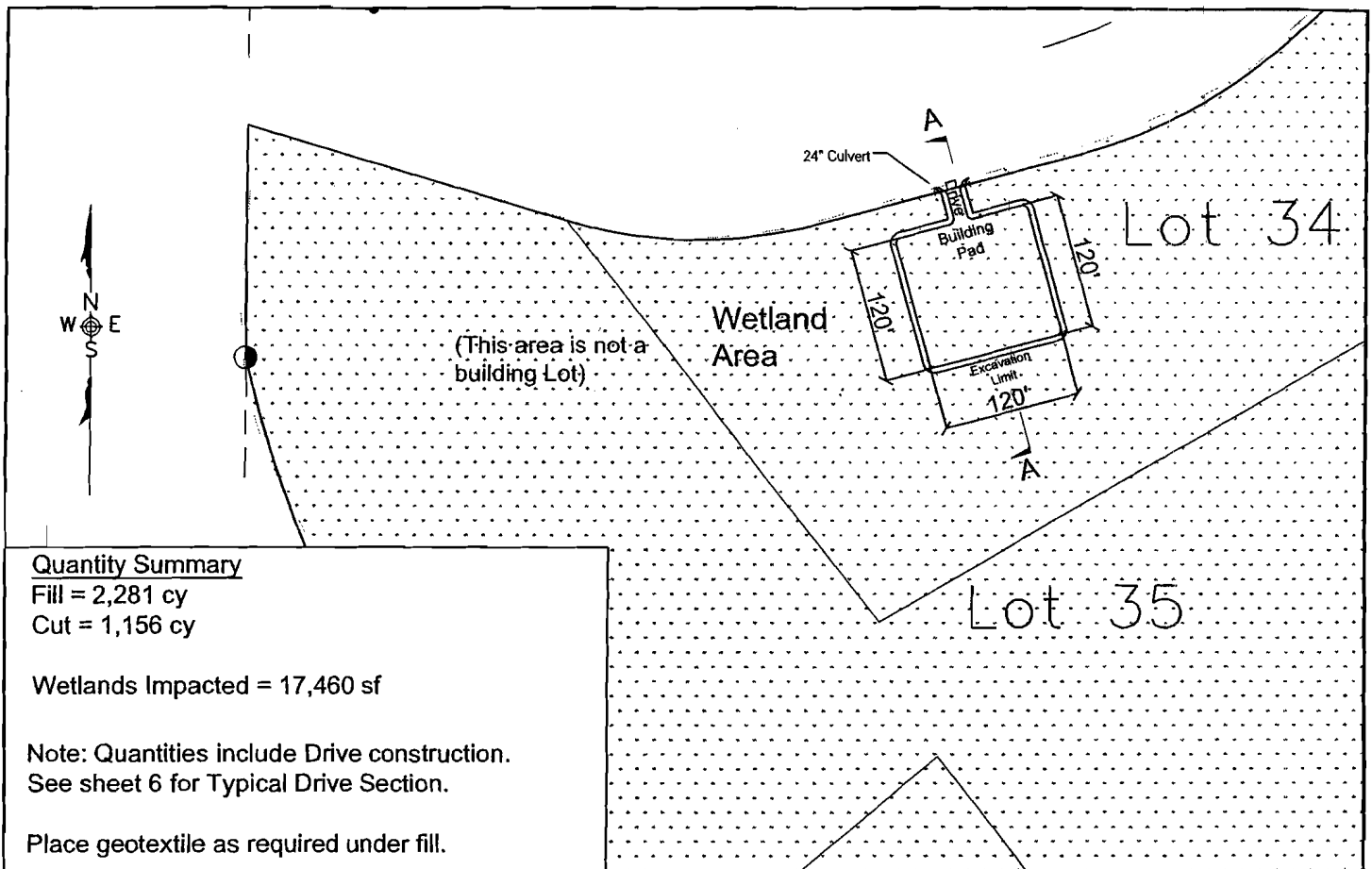
POA-1994-1101-V

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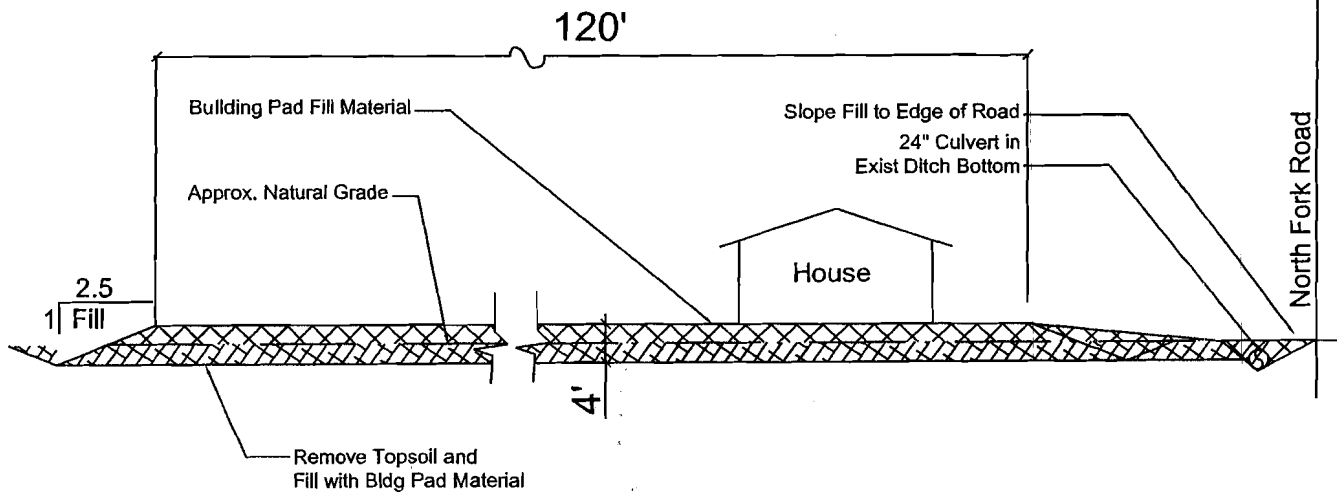
Dr. Paul Sayer

Hughes Tool Company Sayer Addition Number 3
Subdivision



LOT 34 BUILDING PAD AND DRIVEWAY PLAN

SCALE: 1" = 100



LOT 34 BUILDING PAD SECTION A-A

SCALE: 1" = 20



RESTORATION

SCIENCE & ENGINEERING
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 Anchorage, Alaska 99501

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Wetland Fill Permit

Lot 34 Building Pad and Driveway

Dr. Paul Sayer

Hughes Tool Co. Sayer Addition No. 3 LOT 34

Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,

T5S, R14W, Seward Meridian, Homer, Alaska

Wetlands South of Anchor River

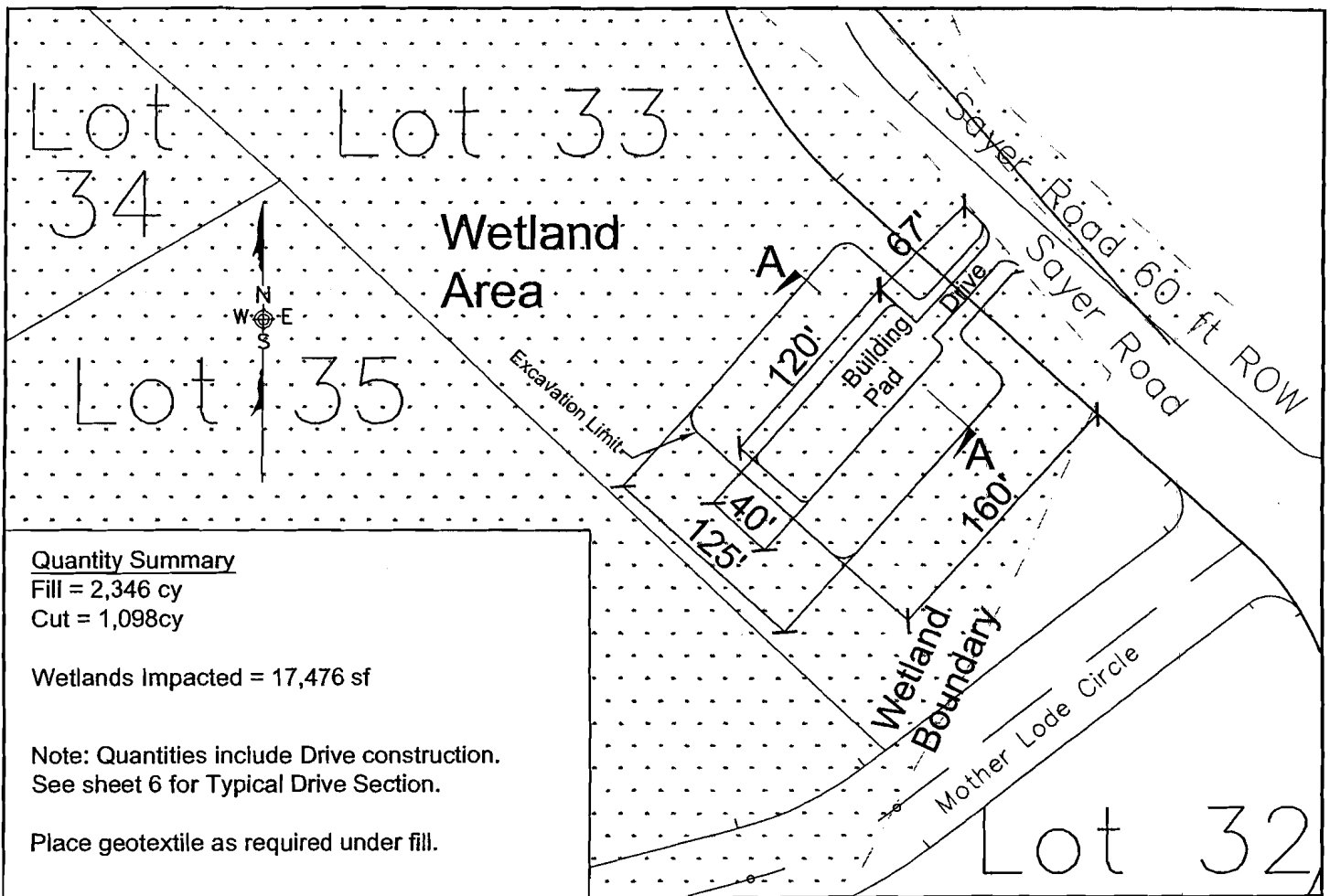
POA-1994-1101-V

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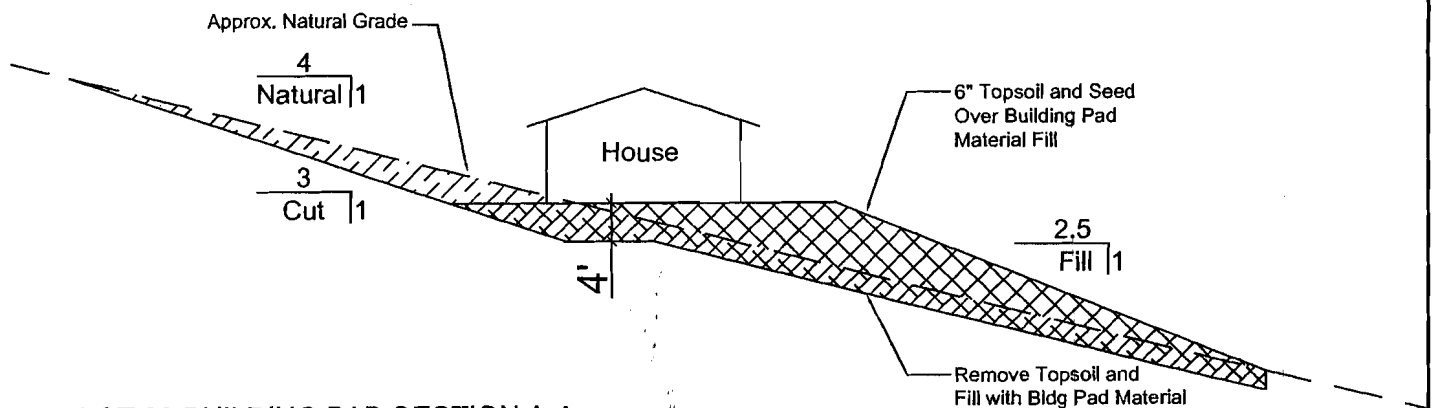
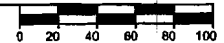
Dr. Paul Sayer

Hughes Tool Company Sayer Addition Number 3
 Subdivision



LOT 33 BUILDING PAD AND DRIVEWAY PLAN

SCALE: 1" = 100



LOT 33 BUILDING PAD SECTION A-A

SCALE: 1" = 20



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Wetland Fill Permit

Lot 33 Building Pad and Driveway

Dr. Paul Sayer

Hughes Tool Co. Sayer Addition No. 3 LOT 33

Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,

T5S, R14W, Seward Meridian, Homer, Alaska

Wetlands South of Anchor River

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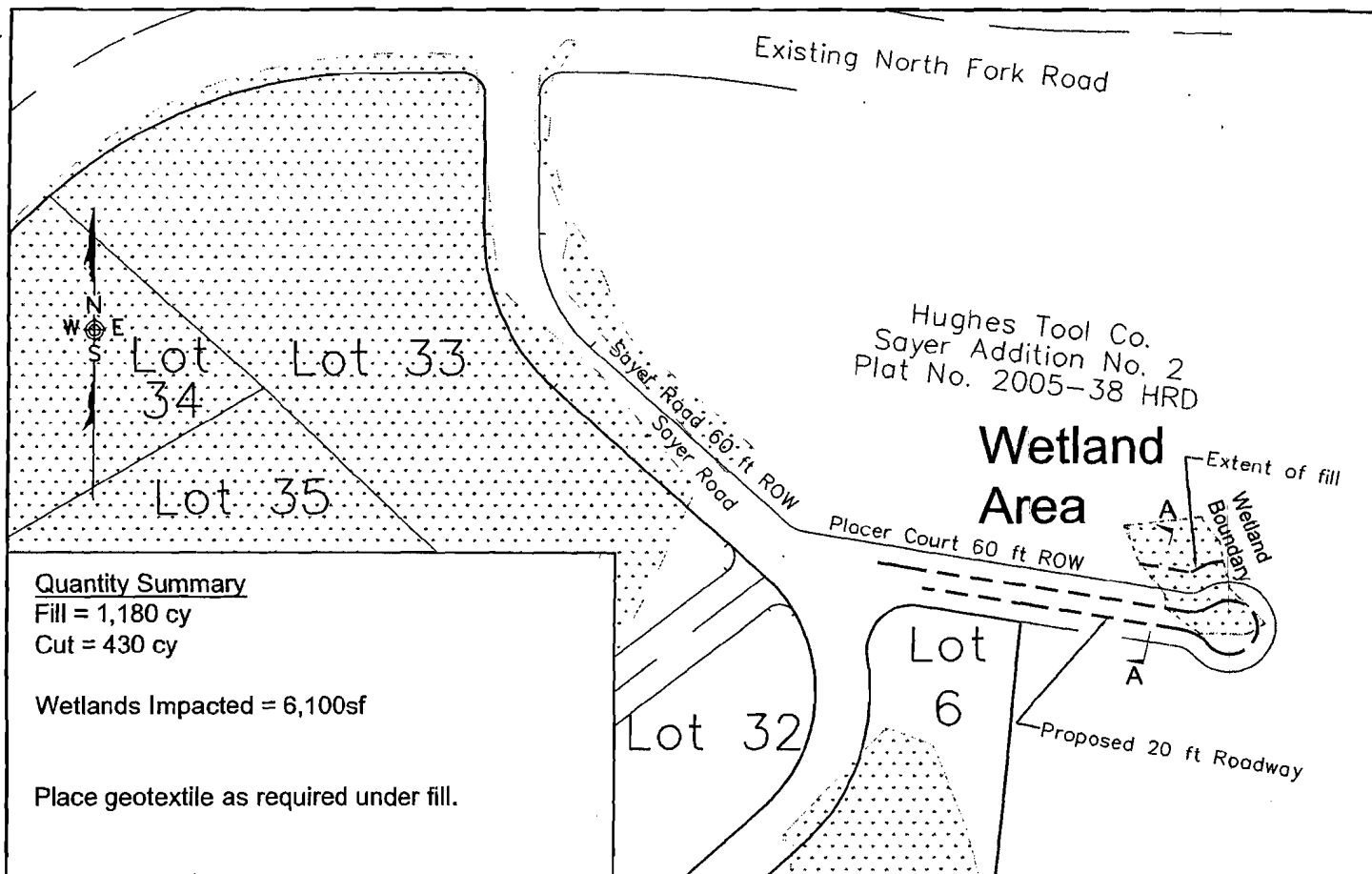
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Dr. Paul Sayer

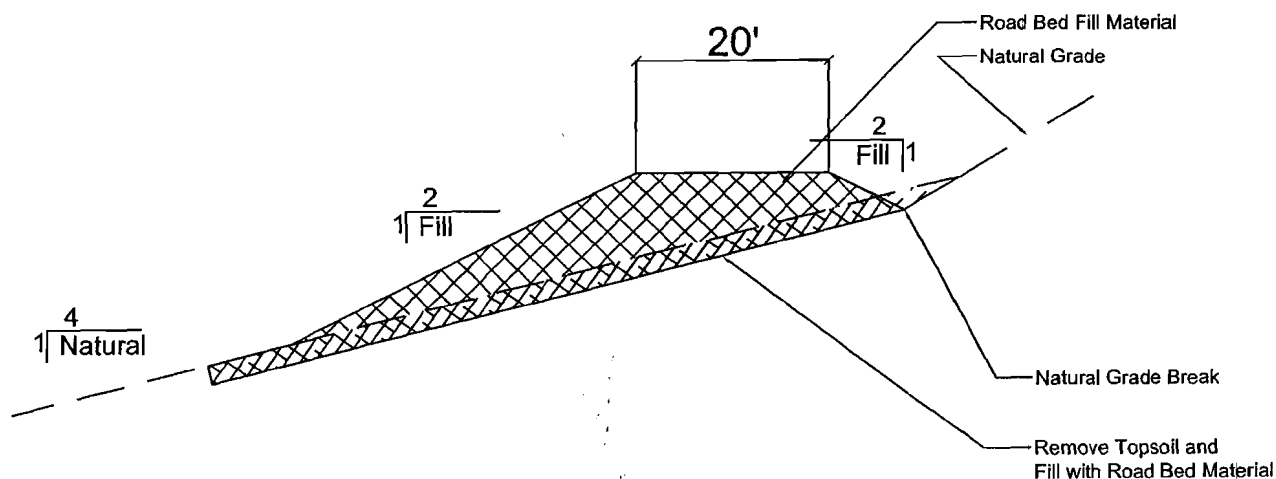
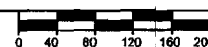
Hughes Tool Company Sayer Addition Number 3

Subdivision



PLACER COURT PLAN

SCALE: 1" = 200



PLACER COURT TYPICAL SECTION

SCALE: 1" = 20



RESTORATION

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Wetland Fill Permit
Portions of Placer Court

Dr. Paul Sayer

Hughes Tool Co. Sayer Addition No. 3 Placer Court

Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,

T5S, R14W, Seward Meridian, Homer, Alaska

Wetlands South of Anchor River

POA-1994-1101-V

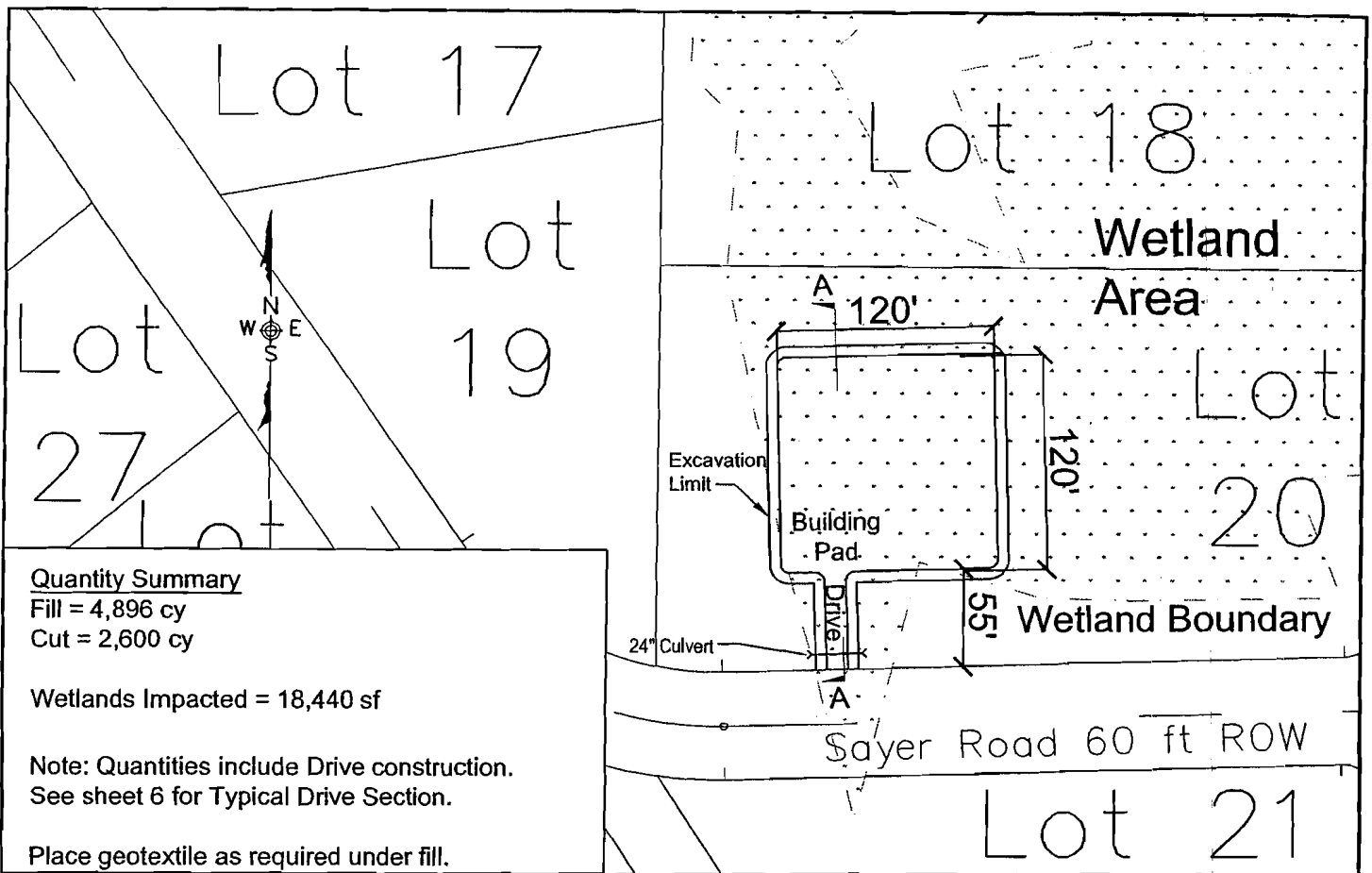
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Dr. Paul Sayer

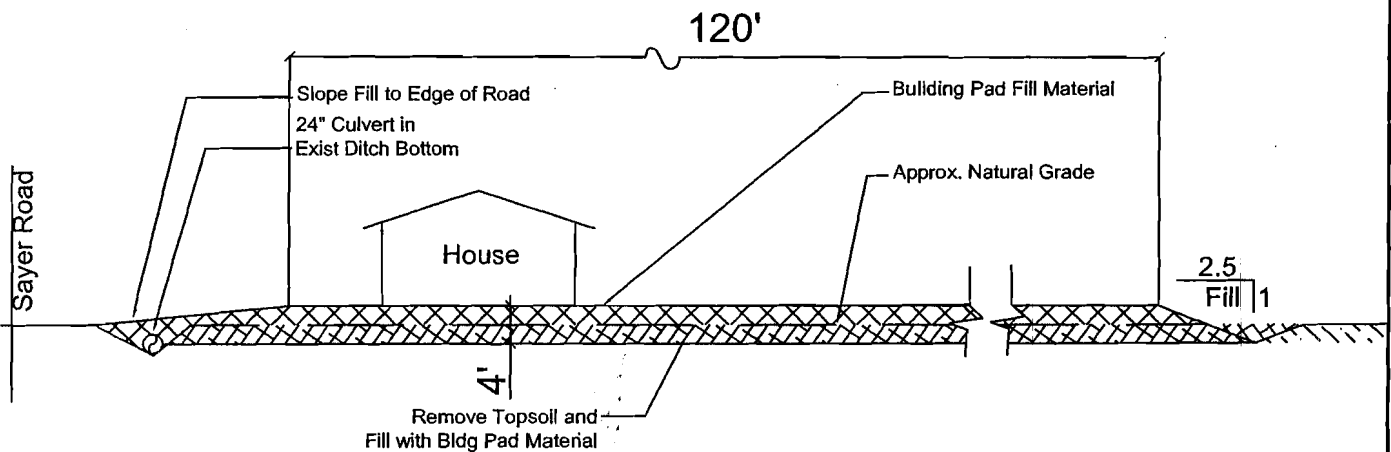
Hughes Tool Company Sayer Addition Number 3

Subdivision



LOT 20 BUILDING PAD AND DRIVEWAY PLAN

SCALE: 1" = 100



LOT 20 BUILDING PAD AND DRIVEWAY SECTION A-A

SCALE: 1" = 20



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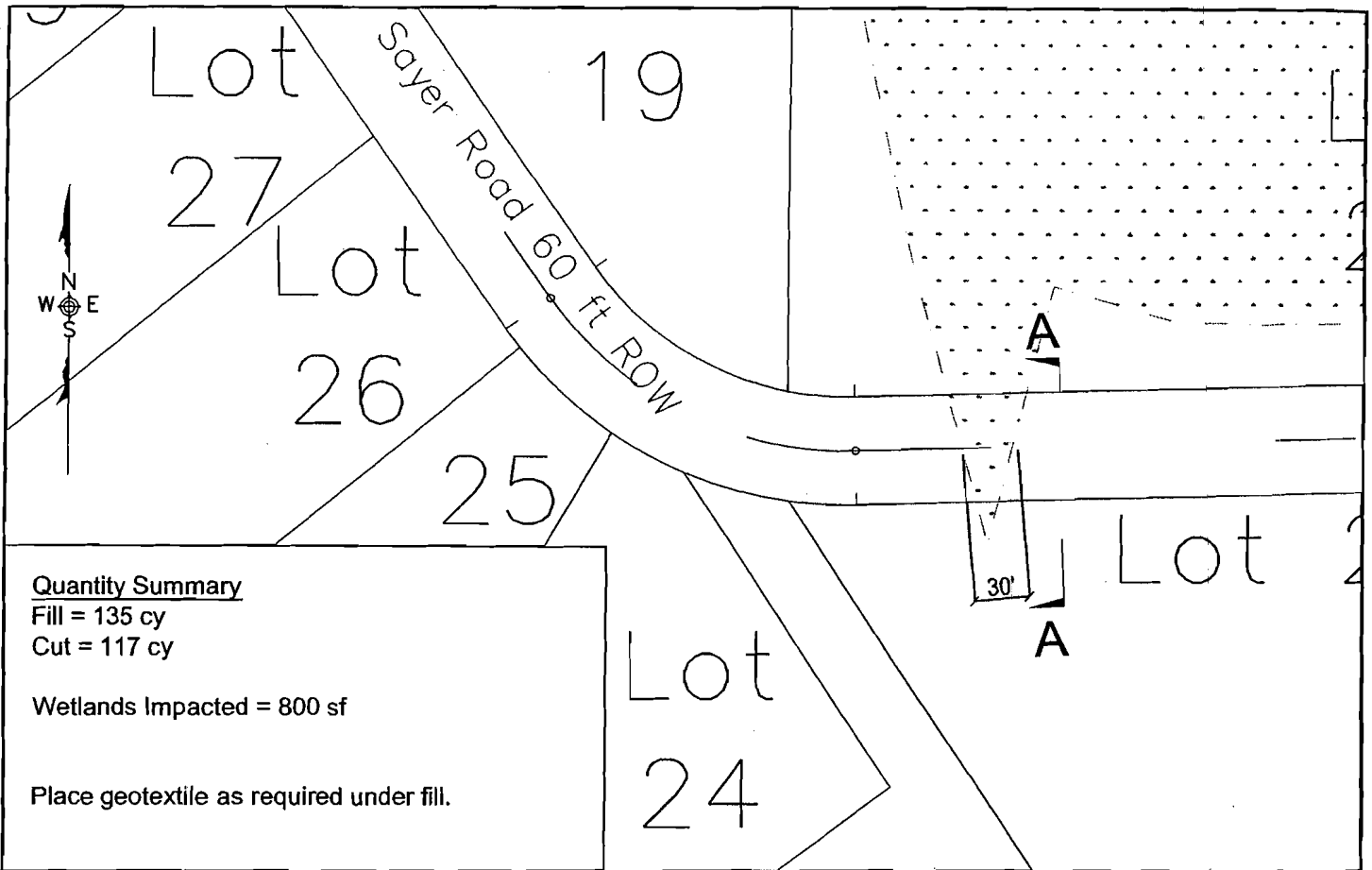
Wetland Fill Permit
 Lot 20 Building Pad and Driveway

Dr. Paul Sayer
 Hughes Tool Co. Sayer Addition No. 3 LOT 20
 Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,
 T5S, R14W, Seward Meridian, Homer, Alaska

POA-1994-1101-V

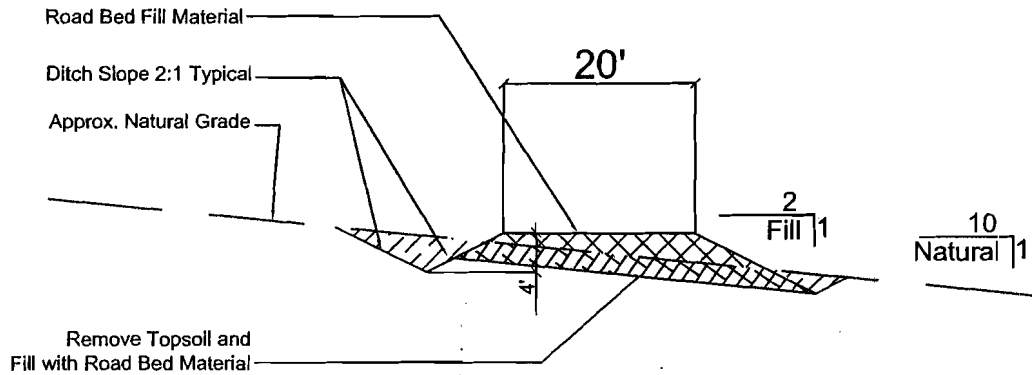
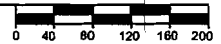
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Dr. Paul Sayer
 Hughes Tool Company Sayer Addition Number 3
 Subdivision



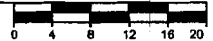
SAYER ROAD PLAN

SCALE: 1" = 200



SAYER ROAD TYPICAL SECTION

SCALE: 1" = 20



RESTORATION

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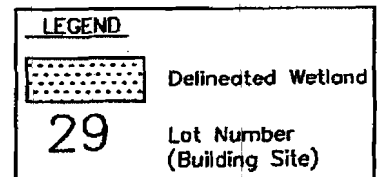
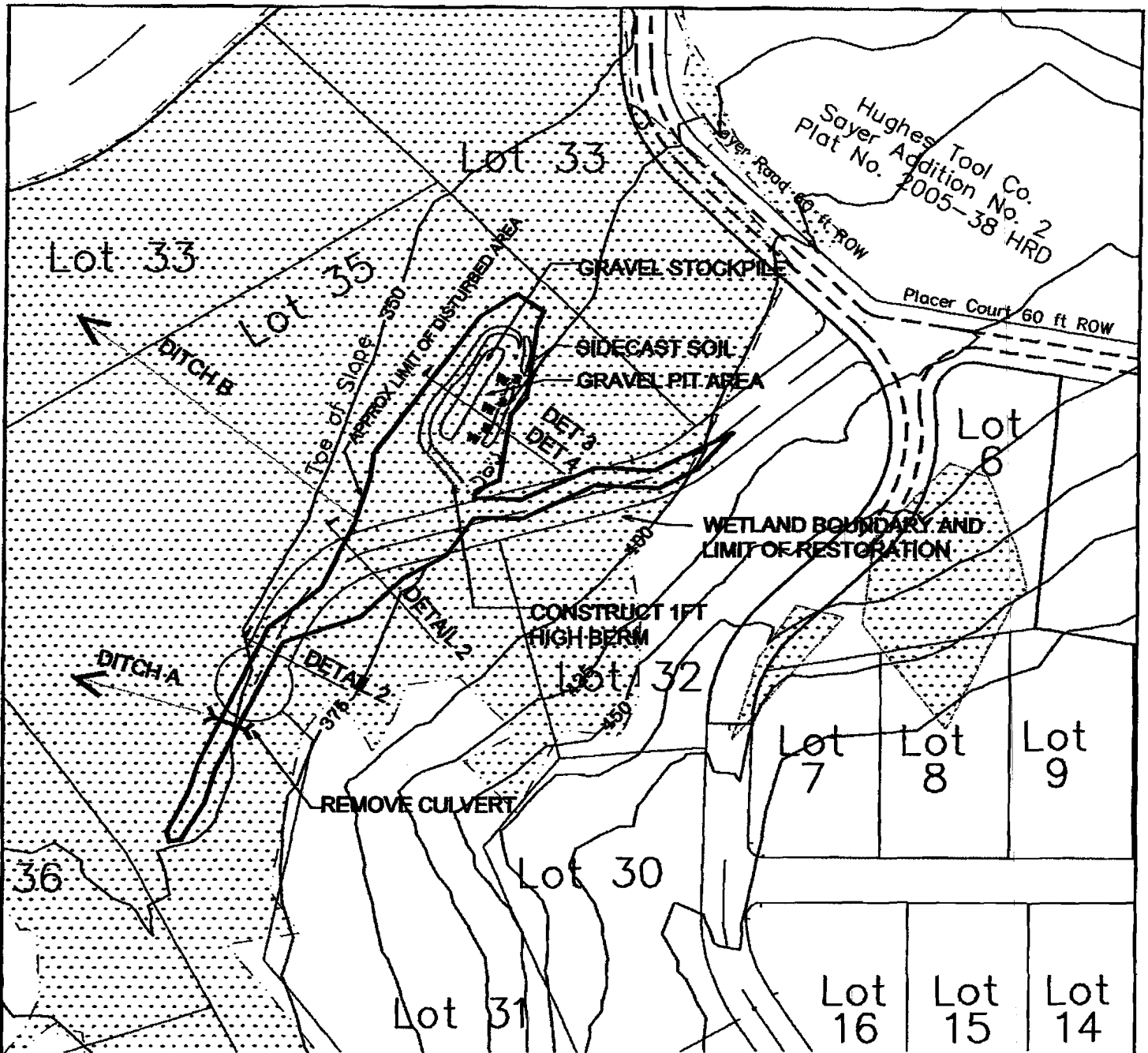
Wetland Fill Permit
 Portions of Sayer Road

Dr. Paul Sayer
 Hughes Tool Co. Sayer Addition No. 3 Sayer Road
 Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,
 T5S, R14W, Seward Meridian, Homer, Alaska
 Wetlands South of Anchor River

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Dr. Paul Sayer
 Hughes Tool Company Sayer Addition Number 3
 Subdivision



WETLAND BOUNDARY AND KEY PLAN
SCALE: 1" = 200'



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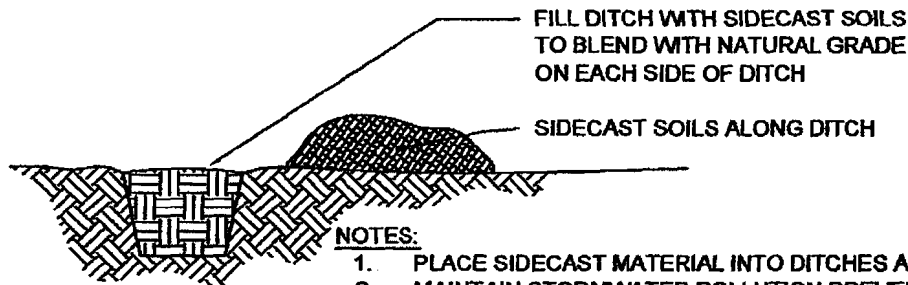
Wetland Restoration Permit
Gravel Pit and Road Restoration Area

Dr. Paul Sayer
Hughes Tool Co. Sayer Addition No. 3 Subdivision
Tract "B-1", SE $\frac{1}{4}$ SEC 29 & NE $\frac{1}{4}$ SEC 32,
T5S. R14W. Seward Meridian. Homer, Alaska

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Dr. Paul Sayer
Hughes Tool Company Sayer Addition Number 3
Subdivision



NOTES:

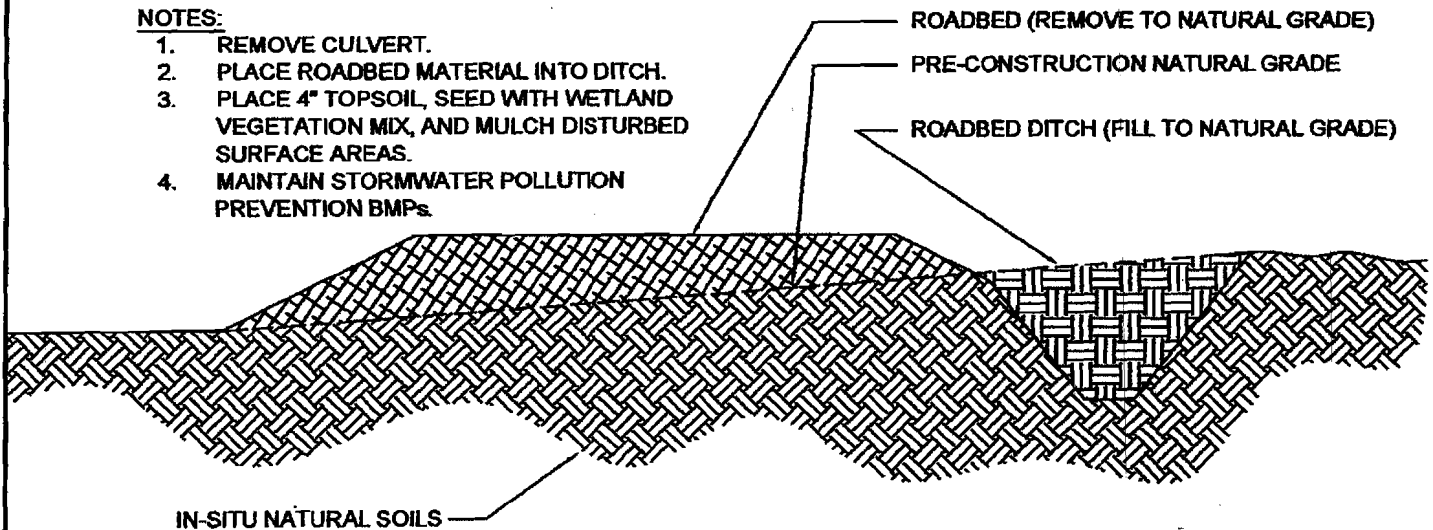
1. PLACE SIDECAST MATERIAL INTO DITCHES A & B.
2. MAINTAIN STORMWATER POLLUTION PREVENTION BMPs.
3. PLACE NATIVE SPECIES MULCH OVER DISTURBED AREA.
4. REFER TO PLAN FOR EQUIPMENT ACCESS PATH.

DETAIL 1, WETLAND DITCHING RESTORATION

NO SCALE

NOTES:

1. REMOVE CULVERT.
2. PLACE ROADBED MATERIAL INTO DITCH.
3. PLACE 4" TOPSOIL, SEED WITH WETLAND VEGETATION MIX, AND MULCH DISTURBED SURFACE AREAS.
4. MAINTAIN STORMWATER POLLUTION PREVENTION BMPs.



DETAIL 2, MOTHERLOAD CUL-DE-SAC & ROADWAY RESTORATION

NO SCALE



RESTORATION

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PH (907) 278-1023 FAX (907) 277-5718

*Wetland Restoration Permit
Restoration Details 1 and 2*

Dr. Paul Sayer

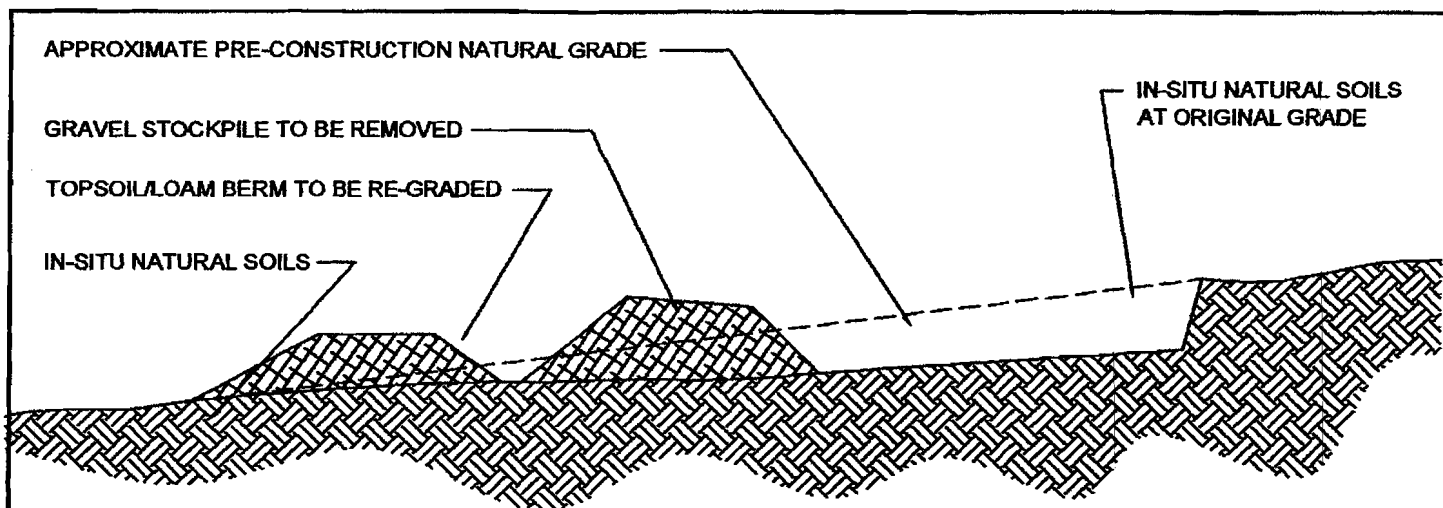
Hughes Tool Co. Sayer Addition No. 3 Subdivision
Tract "B-1", SE $\frac{1}{4}$ SEC 29 & NE $\frac{1}{4}$ SEC 32,
T5S, R14W, Seward Meridian, Homer, Alaska

POA-1994-1101-V

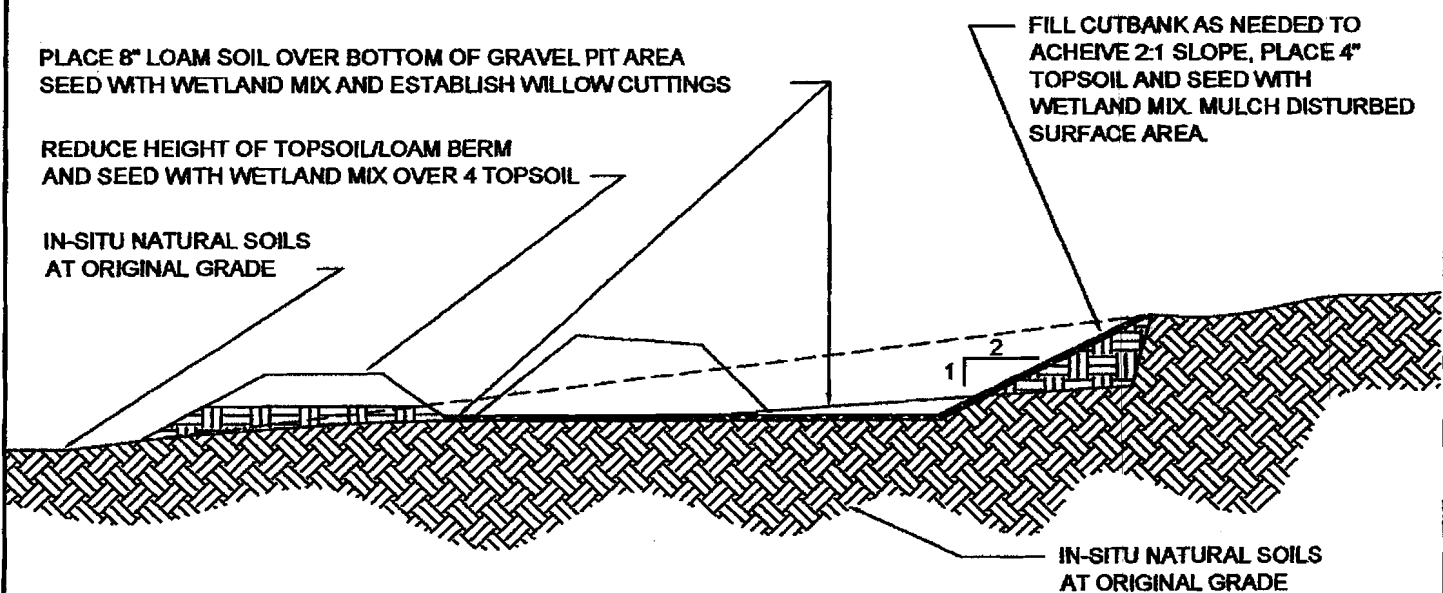
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October 17, 2006

Dr. Paul Sayer

Hughes Tool Company Sayer Addition Number 3
Subdivision



DETAIL 3, SECTION THROUGH GRAVEL BORROW PIT (EXISTING CONDITION) NO SCALE



DETAIL 4, SECTION THROUGH GRAVEL BORROW PIT (ENHANCED CONDITION) NO SCALE



RESTORATION

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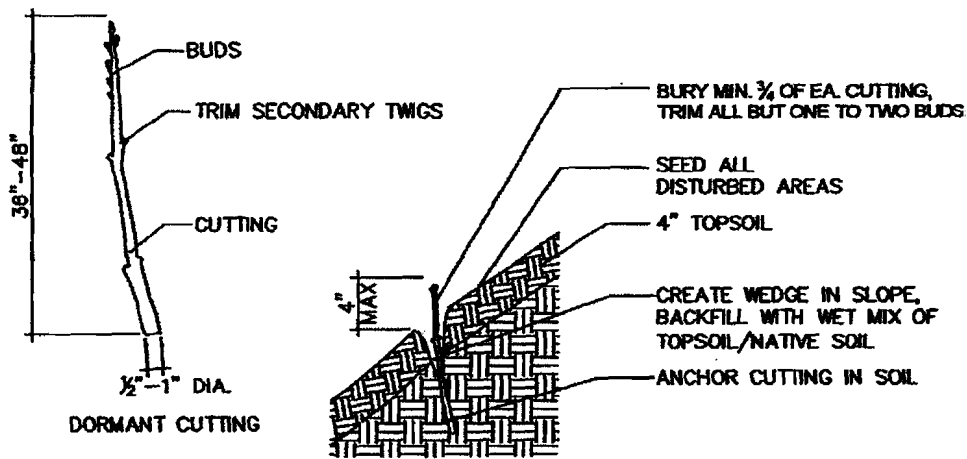
Wetland Restoration Permit
Restoration Details 3 and 4

Dr. Paul Sayer
Hughes Tool Co. Sayer Addition No. 3 Subdivision
Tract "B-1", SE $\frac{1}{4}$ SEC 29 & NE $\frac{1}{4}$ SEC 32,
T5S, R14W, Seward Meridian, Homer, Alaska

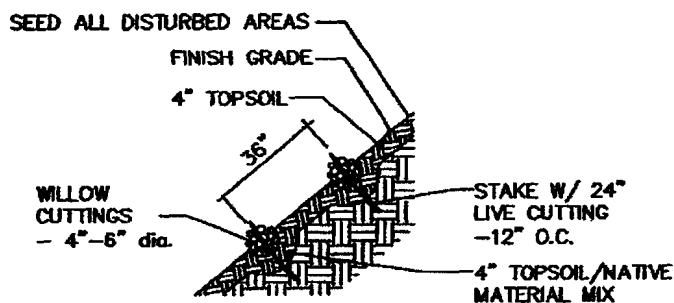
POA-1994-1101-V

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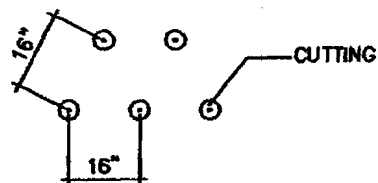
Dr. Paul Sayer
Hughes Tool Company Sayer Addition Number 3
Subdivision



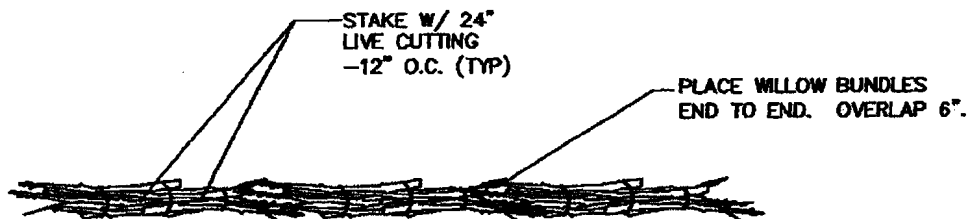
WILLOW CUTTING PLACEMENT DETAIL



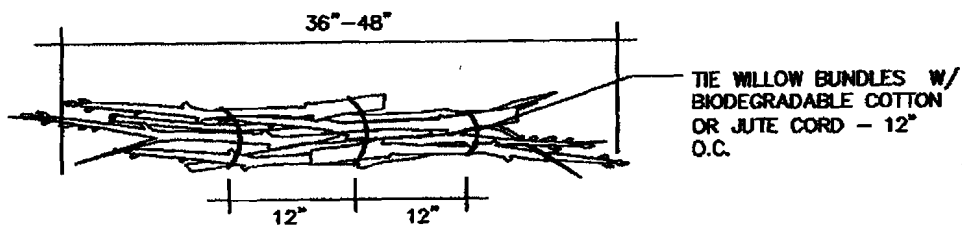
WILLOW CUTTING PLACEMENT DETAIL



WILLOW CUTTING PLACEMENT DIAGRAM



WILLOW BUNDLE PLAN VIEW



WILLOW BUNDLE SIDE VIEW



RESTORATION

SCIENCE & ENGINEERING
911 West 8th Avenue, Suite 100
Anchorage, Alaska 99501

PH (907) 278-1023 FAX (907) 277-57

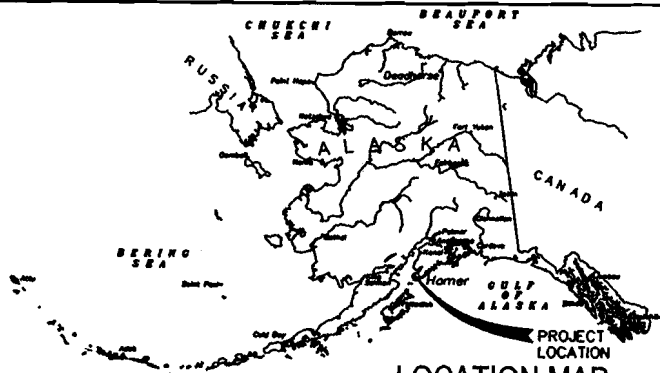
Wetland Restoration Permit
Restoration Planting Details

Dr. Paul Sayer
Hughes Tool Co. Sayer Addition No. 3 Subdivision
Tract "B-1", SE 1/4 SEC 29 & NE 1/4 SEC 32,
T5S, R14W, Seward Meridian, Homer, Alaska

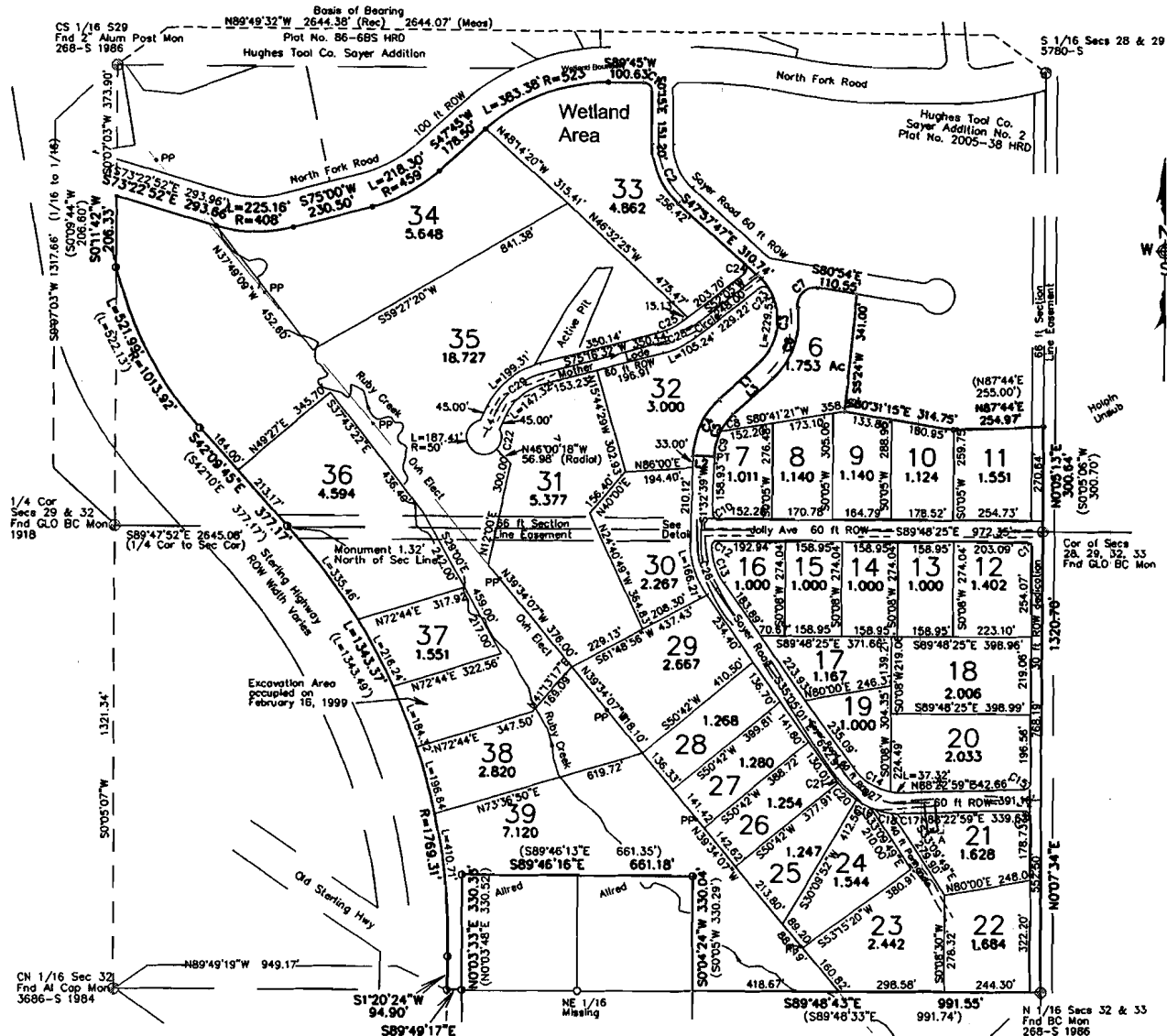
POA-1994-1101-V

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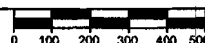
Dr. Paul Sayer
Hughes Tool Company Sayer Addition Number 3
Subdivision



LOCATION MAP NO SCALE



SUBDIVISION PLAN
SCALE: 1" = 500'



RESTORATION

SCIENCE & ENGINEERING
911 West 8th Avenue, Suite 100
Anchorage, Alaska 99501

PH (907) 278-1023 FAX (907) 277-5718

Wetland Fill Permit
Location Map and Subdivision Plan

Dr. Paul Sayer
Hughes Tool Co. Sayer Addition No. 3 Subdivision
Tract "B-1", SE 1/4, SEC 29 & NE 1/4, SEC 32,
T5S, R14W, Seward Meridian, Homer, Alaska

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October 17, 2006

Dr. Paul Sayer
Hughes Tool Company Sayer Addition Number 3
Subdivision

STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. POA-1994-1101-V, Ruby Creek, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
555 Cordova Street
Anchorage, Alaska 99501-2617
Telephone: (907) 269-7564
FAX: (907) 269-7508

STATE OF ALASKA

OFFICE OF THE GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No.

POA-1994-1101-V, Ruby Creek, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.